

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION**

<b>UNITED STATES OF AMERICA,</b>	)	<b>Criminal Action No. 3:07-cr-00019</b>
	)	
<b>v.</b>	)	<b><u>2255 FINAL ORDER</u></b>
	)	
<b>KELVIN SMITH</b>	)	<b>By: Norman K. Moon</b>
	)	<b>United States District Judge</b>

In accordance with the accompanying Memorandum Opinion, it is hereby **ORDERED** and **ADJUDGED** that the government's motion to dismiss is **GRANTED** and the above referenced motion, pursuant to 28 U.S.C. § 2255, is hereby **DISMISSED**. This action shall be **STRICKEN** from the active docket of the court.

Further, finding that Smith has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The Clerk is directed to send copies of this order and the accompanying memorandum opinion to the parties.

Entered this 29<sup>th</sup> day of October, 2010.

  
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NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE